United States Department of Labor Employees' Compensation Appeals Board

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K.B., Appellant)
and) Docket No. 16-1046) Issued: August 8, 2016
U.S. POSTAL SERVICE, POST OFFICE, South Plainfield, NJ, Employer) issued. August 6, 2010))
Appearances: Appellant, pro se Office of Solicitor, for the Director	Case Submitted on the Record

ORDER REMANDING CASE

Before:

CHRISTOPHER J. GODFREY, Chief Judge PATRICIA H. FITZGERALD, Deputy Chief Judge COLLEEN DUFFY KIKO, Judge

On April 22, 2016 appellant filed a timely appeal from a January 28, 2016 merit decision of the Office of Workers' Compensation Programs (OWCP). The Board docketed the appeal as No. 16-1046.

The Board has duly considered the matter and concludes that the case is not in posture for a decision. Appellant filed a traumatic injury claim (Form CA-1) alleging that on March 13, 2013 she injured her right upper chest, right arm, and right hand in the performance of duty. On May 14, 2013 OWCP denied her claim, assigned file number xxxxxxx511, as she had not submitted medical evidence sufficient to establish causal relationship. An OWCP hearing representative, in a December 9, 2013 decision, affirmed OWCP's May 14, 2013 decision. He reviewed the evidence in the current case record and the case records relevant to appellant's other right arm claims, assigned file numbers xxxxxx908 and xxxxxx856. On November 12, 2014 appellant's representative requested reconsideration. In a January 20, 2015 decision, OWCP denied modification of the December 9, 2013 decision. It noted that it had previously denied appellant's claim as the medical evidence in the current case file and the other case files failed to establish causal relationship. Appellant, through her representative, again requested reconsideration on August 31, 2015. By decision dated January 28, 2016, OWCP denied modification of its January 20, 2015 decision. It noted that appellant had filed an occupational disease claim, assigned file number xxxxxxx810, alleging a similar condition. OWCP found that

appellant's physician opined that the March 13, 2013 work injury caused her complaints but that evidence from her other claims indicated that she had preexisting conditions.

OWCP procedures provide that cases should be doubled when a new injury is reported for an employee who previously filed an injury claim for a similar condition and further indicates that the cases should be doubled as soon as the need to do so becomes apparent. As it referenced prior claims in denying appellant's claim for a right upper extremity condition, it should have combined the case files in accordance with its procedures.

As the current record does not contain the evidence referenced by OWCP in denying appellant's claim, the Board is unable to properly address the relevant issue in this case. The case is thus not in posture for decision as the record before the Board is incomplete and would not permit an informed adjudication of the case. On remand, OWCP should combine the present case record with claim numbers xxxxxxx801, xxxxxxx908, and xxxxxxx856. After combining the case records, it should consider all the evidence and, following any necessary further development, issue an appropriate decision on appellant's claim.

IT IS HEREBY ORDERED THAT the January 28, 2016 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this order of the Board.

Issued: August 8, 2016 Washington, DC

Christopher J. Godfrey, Chief Judge Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge Employees' Compensation Appeals Board

¹ Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c)(1) (February 2000).

² Id.; see also Order Remanding Case, Docket No. 15-0756 (issued September 16, 2015).